

STANDARDS FOR INTERDEPARTMENTAL REGULATION OF CHILDREN'S
RESIDENTIAL FACILITIES

22 VAC 42-10-10. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Adaptive behavior" means the effectiveness or degree with which individuals with diagnosed mental disabilities meet the standards of personal independence and social responsibility expected of their age and cultural group.

"Allegation" means an accusation that a facility is operating without a license or receiving public funds for services it is not certified to provide.

"Applicable state regulation" means any regulation which the promulgating state agency determines applies to the facility. The term includes, but is not necessarily limited to modules, standards, and other regulations promulgated by the Departments of Education; Health; Housing and Community Development; Juvenile Justice; Mental Health, Mental Retardation and Substance Abuse Services; or other state agency.

"Applicant" means the person, corporation, partnership, association or public agency which has applied for a license or certificate.

"Application" means a document completed by the facility to furnish the regulatory authority details about the facility's operations and includes certifications that the facility understands and intends to comply with regulatory requirements. An application includes inspection reports necessary to verify compliance with applicable requirements

STANDARDS FOR INTERDEPARTMENTAL REGULATION OF CHILDREN'S
RESIDENTIAL FACILITIES

of other state agencies. An application is complete when all required information is provided and the application is signed and dated by the individual legally responsible for operation of the facility.

"Aversive stimuli" means physical forces (e.g. sound, electricity, heat, cold, light, water, or noise) or substance (e.g. hot pepper, pepper sauce, or pepper spray) measurable in duration and intensity which when applied to a client are noxious or painful to the client, but in no case shall the term "aversive stimuli" include striking or hitting the client with any part of the body or with an implement or pinching, pulling, or shaking the client.

"Behavior management" means those principles and methods employed by a licensee to help a child achieve positive behavior and to address and correct a child's inappropriate behavior in a constructive and safe manner, in accordance with written policies and procedures governing program expectations, treatment goals, child and staff safety and security, and the child's service plan.

"Behavior support assessment" means identification of a resident's behavior triggers, successful intervention strategies, anger and anxiety management options for calming, techniques for self-management, and specific goals that address the targeted behaviors that lead to emergency safety interventions.

"Body cavity search" means any examination of a resident's rectal or vaginal cavities except the performance of medical procedures by medical personnel.

STANDARDS FOR INTERDEPARTMENTAL REGULATION OF CHILDREN'S
RESIDENTIAL FACILITIES

"Boot Camp" means a facility specifically approved to operate with highly structured components including, but not limited to, military style drill and ceremony, physical labor, education and rigid discipline and no less than six months of intensive aftercare.

"Case record" or "Record" means up to date written or automated information relating to one resident. This information includes social and medical data, agreements, all correspondence relating to care of the resident, service plan with periodic revisions, aftercare plans and discharge summary, and any other data related to the resident.

"Chemical restraint" means use of any pharmacological substance for the sole purpose of controlling a resident's behavior in the absence of a diagnosed medical or psychiatric condition. Chemical restraint does not include the appropriate use of medications ordered by a licensed physician for treating medical or psychiatric conditions.

"Child" means any person legally defined as a child under state law. The term includes residents and other children coming in contact with the resident or facility (e.g. visitors). When the term is used, the requirement applies to every child at the facility regardless of whether the child has been admitted to the facility for care (e.g. staff/child ratios apply to all children present even though some may not be residents).

"Child placing agency" means any person licensed to place children in foster homes or adoptive homes or a local board of public welfare or social services authorized to place children in foster homes or adoptive homes.

STANDARDS FOR INTERDEPARTMENTAL REGULATION OF CHILDREN'S
RESIDENTIAL FACILITIES

"Child with special needs" means a child in need of particular services because the child has mental retardation, a developmental disability, mental illness, emotional disturbance, a substance abuse problem, is in need of special educational services, or requires security services.

"Child with a visual impairment" means one whose vision, after best correction, limits the child's ability to profit from a normal or unmodified educational or daily living setting.

"Client" means a person receiving treatment or other services from a program, facility, institution or other entity regulated under these standards whether that person is referred to as a patient, resident, student, consumer, recipient, family member, relative, or other term. When the term is used, the requirement applies to every client of the facility. Some facilities operate programs in addition to the children's residential facility; the requirement applies only to the clients of the children's residential facility and not to clients participating in other programs.

"Complaint" means an accusation against a licensed or certified facility regarding an alleged violation of standards or law.

"Compliance Plan" means violations documented by the regulatory authority and the facility's corrective action to the documented violations within a specified time frame.

"Confined in detention with a suspended commitment to the Department of Juvenile Justice" means that a court has committed the juvenile to the Department of Juvenile

STANDARDS FOR INTERDEPARTMENTAL REGULATION OF CHILDREN'S
RESIDENTIAL FACILITIES

Justice but has suspended the commitment and ordered the juvenile confined in a local detention home for a period not to exceed six months as found in §16.1-284.1.B in the Code of Virginia.

"Confinement" means staff directed temporary removal of a resident from contact with people through placing the resident alone in his bedroom or other normally furnished rooms. Confinement does not include timeout or seclusion.

"Contraband" means any item prohibited by law or by the rules and regulations of the agency, or any item which conflicts with the program or safety and security of the facility or individual residents.

"Corporal punishment" means punishment administered through the intentional inflicting of pain or discomfort to the body through (i) actions such as, but not limited to, striking or hitting with any part of the body or with an implement; (ii) through pinching, pulling, or shaking; or (iii) through any similar action which normally inflicts pain or discomfort.

"Day" means calendar day unless the context clearly indicates otherwise.

"Detention home" or "secure detention" means a local, regional or state, publicly or privately operated secure custody facility which houses juveniles who are ordered detained pursuant to the Code of Virginia. The term does not include juvenile correctional centers.

STANDARDS FOR INTERDEPARTMENTAL REGULATION OF CHILDREN'S
RESIDENTIAL FACILITIES

"DMHMRSAS" means the Department of Mental Health, Mental Retardation and Substance Abuse Services.

"DOE" means the Department of Education.

"DSS" means the Department of Social Services.

"Emergency" means a sudden, generally unexpected occurrence or set of circumstances demanding immediate action. Emergency does not include regularly scheduled time off for permanent staff or other situations which should reasonably be anticipated.

"Emergency admission" means the sudden, unplanned, unexpected admittance of a child who needs immediate care except self-admittance to a temporary care facility or a court ordered placement.

"Goal" means expected results or conditions that usually involve a long period of time and which are written in behavioral terms in a statement of relatively broad scope. Goals provide guidance in establishing specific short-term objectives directed toward the attainment of the goal.

"Good character and reputation" means findings have been established and knowledgeable and objective people agree that the individual maintains business or professional, family and community relationships which are characterized by honesty, fairness, truthfulness, and dependability, and has a history or pattern of behavior that

STANDARDS FOR INTERDEPARTMENTAL REGULATION OF CHILDREN'S
RESIDENTIAL FACILITIES

demonstrates that the individual is suitable and able to care for, supervise, and protect children. Relatives by blood or marriage, and persons who are not knowledgeable of the individual, such as recent acquaintances, shall not be considered objective references.

"Human research" means any systematic investigation utilizing human subjects which may expose such human subjects to physical or psychological injury as a consequence of participation as subjects and which departs from the application of established and accepted therapeutic methods appropriate to meet the subjects' needs.

"Immediately" means directly without delay.

"Independent living program" means a program that is specifically approved to provide the opportunity for the residents to develop the skills necessary to live successfully on their own following completion of the program.

"Individualized service plan" means a written plan of action developed, and modified at intervals, to meet the needs of a specific resident. It specifies short and long-term goals, the methods and time frames for reaching the goals and the individuals responsible for carrying out a plan.

"Interdepartmental standards" means the standards for residential care which are common to the departments and which must be met by a children's residential facility in order to qualify for a license or certificate.

STANDARDS FOR INTERDEPARTMENTAL REGULATION OF CHILDREN'S
RESIDENTIAL FACILITIES

"Intrusive aversive therapy" means a formal behavior management technique designed to reduce or eliminate severely maladaptive, violent, or self-injurious behavior through the application of aversive stimuli contingent upon the exhibition of such behavior.

Intrusive aversive therapy does not include verbal therapies, seclusion, physical or mechanical restraints used in conformity with the applicable human rights regulations promulgated pursuant to the Code of Virginia, or psychiatric medications which are used for purposes other than intrusive aversive therapy.

"Juvenile correctional center" means a secure custody facility operated by, or under contract with, the Department of Juvenile Justice to house and treat persons committed to the department.

"Legal guardian" means the natural or adoptive parents or other person, agency, or institution who has legal custody of a child.

"License or certificate" means a document verifying approval to operate a residential facility for children and which indicates the status of the facility regarding compliance with applicable state regulations.

"Licensee" means the person, corporation, partnership, association, or public agency to whom a license or certificate is issued and who is legally responsible for compliance with the standards and statutory requirements relating to the facility.

STANDARDS FOR INTERDEPARTMENTAL REGULATION OF CHILDREN'S
RESIDENTIAL FACILITIES

"Live in staff" means staff who are required to be on duty for a period of 24 consecutive hours or more during each work week.

"Living Unit" means the space in which a particular group of children in care of a residential facility reside. A living unit contains sleeping areas, bath and toilet facilities, and a living room or its equivalent for use by the residents of the unit. Depending upon its design, a building may contain one living unit or several separate living units.

"Mechanical restraint" means use of devices to restrict the movement of an individual or the movement or normal function of a portion of the individual's body, but does not include the appropriate use of those devices used to provide support for the achievement of functional body position or proper balance and those devices used for specific medical and surgical treatment or treatment for self-injurious behavior.

"Medication error" means that an error has been made in administering a medication to a resident when any of the following occur: (i) the wrong medication is given to a resident; (ii) the wrong resident is given the medication; (iii) the wrong dosage is given to a resident; (iv) medication is given to a resident at the wrong time or not at all; and (v) the proper method is not used to give the medication to a resident.

"Objective" means expected short-term results or conditions that must be met in order to attain a goal. Objectives are stated in measurable, behavioral terms and have a specified time for achievement.

STANDARDS FOR INTERDEPARTMENTAL REGULATION OF CHILDREN'S
RESIDENTIAL FACILITIES

"On duty" means that period of time during which a staff person is responsible for the supervision of one or more children.

"Parent" means a natural or adoptive parent or a surrogate parent appointed pursuant to DOE's regulations governing special education programs for students with disabilities. "Parent" means either parent unless the facility has been provided evidence that there is a legally binding instrument, a state law or a court order governing such matters as divorce, separation, or custody, which provides to the contrary.

"Pat down" means a thorough external body search of a clothed resident.

"Physical restraint" means the restraint of a resident's body movements by means of physical contact by staff members. Physical restraint does not include physical prompts or guidance used with individuals with diagnosed mental disabilities in the education or training of adaptive behaviors. (See definition of "adaptive behavior.")

"Placement" means an activity by any person which provides assistance to a parent or legal guardian in locating and effecting the movement of a child to a foster home, adoptive home, or to a residential facility for children.

"Premises" means the tracts of land on which any part of a residential facility for children is located and any buildings on such tracts of land.

"Program" means a combination of procedures or activities carried out in order to meet a specific goal or objective.

STANDARDS FOR INTERDEPARTMENTAL REGULATION OF CHILDREN'S
RESIDENTIAL FACILITIES

"Public funding" means funds paid by, on behalf of, or with the financial participation of the state Departments of Education; Juvenile Justice; Mental Health, Mental Retardation and Substance Abuse Services; or Social Services.

"Regulatory authority" means the department or state board that is responsible under the Code of Virginia for the licensure or certification of a residential facility for children.

"Resident" means a person admitted to a children's residential facility for supervision, care, training or treatment on a 24-hour per day basis. Resident includes children making preplacement visits to the facility. When the term is used, the requirement applies only to individuals who have been admitted to the facility and those making preplacement visits.

"Residential facility for children" or "facility" means a publicly or privately operated facility, other than a private family home, where 24-hour per day care is provided to children separated from their legal guardians and which is required to be licensed or certified by the Code of Virginia except:

1. Any facility licensed by the Department of Social Services as a child-caring institution as of January 1, 1987, and which receives no public funds; and
2. Private psychiatric hospitals serving children that are licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services under Rules and

STANDARDS FOR INTERDEPARTMENTAL REGULATION OF CHILDREN'S
RESIDENTIAL FACILITIES

Regulations for the Licensure of Facilities and Providers of Mental Health, Mental
Retardation and Substance Abuse, 12 VAC 35-102-10 et seq.

Group homes are included under this definition of residential facility for children. Group
home means a community-based, home-like single dwelling, or its acceptable
equivalent, other than the private home of the operator, and serves up to 12 residents.

"Respite care facility" means a facility that is specifically approved to provide short-term,
periodic residential care to children accepted into its program in order to give the legal
guardians temporary relief from responsibility for their direct care.

"Responsible adult" means an adult, who may or may not be a staff member, who has
been delegated authority and responsibility to make decisions and to take actions to
manage the safety and well-being of children. The term implies that the facility has
reasonable grounds to believe that the responsible adult has sufficient knowledge,
judgment and maturity to handle the situation.

"Rest day" means a period of not less than 32 consecutive hours during which a staff
person has no responsibility to perform duties related to the facility. Two successive
rest days means a period of not less than 48 consecutive hours during which a staff
person has no responsibility to perform duties related to the facility. Each successive
rest day immediately following the second shall consist of not less than 24 additional
consecutive hours.

STANDARDS FOR INTERDEPARTMENTAL REGULATION OF CHILDREN'S
RESIDENTIAL FACILITIES

"Right" is something to which one has a legal or contractual claim.

"Routine admission" means the admittance of a child following evaluation of an application for admission, completion of preplacement activities, and execution of a written placement agreement.

"Rules of conduct" means a listing of rules or regulations which is maintained to inform residents and others about behaviors which are not permitted and the consequences applied when the behaviors occur.

"Sanitizing agent" means a laundry bleach with an active ingredient of 5.25% sodium hypochlorite.

"Seclusion" means placing a resident in a room with the door secured in any manner that prevents the resident from opening it.

"Secure custody facility" means a detention home or a juvenile correctional center.

"Self-admission" means the admittance of a child who seeks admission to a temporary care facility as permitted by Virginia statutory law without completing the requirements for "routine admission."

"Severe weather" means extreme environment or climate conditions which pose a threat to the health, safety or welfare of residents.

"Shall" means an obligation to act is imposed.

"Shall not" means an obligation not to act is imposed.

STANDARDS FOR INTERDEPARTMENTAL REGULATION OF CHILDREN'S
RESIDENTIAL FACILITIES

"Standard" means a statement which describes in measurable terms a required minimum performance level.

"Strategies" means a series of steps and methods used to meet goals and objectives.

"Strip search" means a visual inspection of the body of a resident when that resident's outer clothing or total clothing is removed and an inspection of the removed clothing.

Strip searches are conducted for the detection of contraband.

"Student/intern" means an individual who simultaneously is affiliated with an educational institution and a residential facility. Every student/intern who is not an employee is either a volunteer or contractual service provider depending upon the relationship among the student/intern, educational institution, and facility.

"Systemic deficiency" means violations documented by the regulatory authority which demonstrate defects in the overall operation of the facility or one or more of its components.

"Target population" means individuals with a similar, specified characteristic or disability.

"Temporary care facility" means a facility or an emergency shelter specifically approved to provide a range of services, as needed, on an individual basis not to exceed 90 days except that this term does not include secure detention facilities.

STANDARDS FOR INTERDEPARTMENTAL REGULATION OF CHILDREN'S
RESIDENTIAL FACILITIES

"Therapy" means provision of direct diagnostic, preventive and treatment services where functioning is threatened or affected by social and psychological stress or health impairment.

"Timeout" means temporarily removing a resident and placing the resident alone in a special timeout room that is unfurnished or sparsely furnished and which contains few reinforcing environmental stimuli.

"Treatment" means any action which helps a person in the reduction of disability or discomfort, the amelioration of symptoms, undesirable conditions or changes in specific physical, mental, behavioral or social functioning.

"Variance" means temporary or permanent waiver of compliance with a standard or portion of a standard, or permission to meet the intent of the standard by a method other than that specified in the standard, when the regulatory authority, in its sole discretion, determines: (i) enforcement will create an undue hardship; (ii) the standard is not specifically required by statute or by the regulations of another government agency; and (iii) resident care will not be adversely affected. The denial of a request for a variance is appealable when it leads to the denial or revocation of a license or certificate.

"Wilderness camp" means a facility specifically approved to provide a primitive camping program with a nonpunitive environment and an experience curriculum for residents

STANDARDS FOR INTERDEPARTMENTAL REGULATION OF CHILDREN'S
RESIDENTIAL FACILITIES

nine years of age and older who cannot presently function in home, school, and community. In lieu of or in addition to dormitories, cabins or barracks for housing residents, primitive campsites are used to integrate learning and therapy with real living needs and problems for which the resident can develop a sense of social responsibility and self worth.

22 VAC 42-10-15. Interdepartmental cooperation.

The Departments of Education; Juvenile Justice; Mental Health, Mental Retardation and Substance Abuse Services; and Social Services shall assist and cooperate with each other in the licensing and certification of children's residential facilities.

22 VAC 42-10-30. Visitation of facilities.

A. Representatives of the departments shall make announced and unannounced visits during the effective dates of the license/certificate. The purpose of these visits is to monitor compliance with applicable standards.

B. The regulatory authority shall notify relevant local governments and placing and funding agencies, including the Office of Comprehensive Services, of multiple health and safety or human rights violations in children's residential facilities when such violations result in the lowering of the license or certificate to provisional status.

22 VAC 42-10-32. Posting of information.

STANDARDS FOR INTERDEPARTMENTAL REGULATION OF CHILDREN'S
RESIDENTIAL FACILITIES

A. Information concerning the application for initial licensure of children's residential facilities shall be posted to the Interdepartmental Regulation web site, by locality.

B. An accurate listing of all licensed or certified facilities including information on renewal, denial or provisional licensure, services and identification of the lead regulatory authority shall be posted to the Interdepartmental Regulation web site, by locality.

22 VAC 42-10-35. General requirements.

A. The facility shall demonstrate full compliance with sufficient applicable standards to clearly demonstrate that its program and physical plant can provide reasonable safe and adequate care while approved plans of action to correct findings of noncompliance are being implemented and there are no noncompliances which pose an immediate and direct danger to residents.

B. Corporations sponsoring residential facilities for children shall maintain their corporate status in accordance with Virginia law. Corporations not organized and empowered solely to operate residential facilities for children shall provide for such operations in their charters.

C. The facility shall comply with the terms of its license or certificate.

D. A license or certificate is not transferable and automatically expires when there is a change of ownership or sponsorship.

STANDARDS FOR INTERDEPARTMENTAL REGULATION OF CHILDREN'S
RESIDENTIAL FACILITIES

E. The current license or certificate shall be posted at all times in a place conspicuous to the public.

F. A license or certificate shall not be issued to a facility when noncompliance poses an immediate danger to the resident's life, health or safety.

G. Intermediate sanctions authorized by statute may be imposed at the discretion of the regulatory authorities in addition to the sanctions specified in this chapter.

H. Each facility shall self-report within 72 hours, to the lead regulatory agency, lawsuits against or settlements with residential facility operators relating to the health and safety or human rights of residents and any criminal charges against staff that may have been made relating to the health and safety or human rights of residents.

22 VAC 42-10-40. Licenses/certificates.

A. The Board of Juvenile Justice shall issue a certificate to each facility regulated by the board, indicating the facility's certification status when the facility is in compliance with these interdepartmental standards, other applicable regulations issued by the board, and applicable statutes. The certificate shall be effective for the period specified by the board unless it is revoked or surrendered sooner.

B. Facilities Regulated by DOE, DMHMRSAS, or DSS.

1. A triennial license or certificate shall be issued when the facility (i) applies for renewal while holding an annual or triennial license or certificate and (ii) substantially meets or

STANDARDS FOR INTERDEPARTMENTAL REGULATION OF CHILDREN'S
RESIDENTIAL FACILITIES

exceeds the requirements of the interdepartmental standards and other applicable regulations and statutes.

2. Annual Licenses/Certificates.

a. An annual license or certificate shall be issued when the facility:

(1) Applies for renewal while holding a conditional or provisional license or certificate and substantially meets or exceeds the requirements of the interdepartmental standards and other applicable regulations and statutes; or

(2) Applies for renewal while holding an annual or triennial license or certificate and one systemic deficiency has been identified during the licensure or certification period without the facility taking acceptable, documented corrective action;

b. An annual license or certificate may be issued to a facility whose sponsor requests establishment of a new facility to serve the same target population as that currently being served by the sponsor in facilities regulated through the Interdepartmental Regulatory Program.

c. An annual license or certificate may be renewed, but an annual license or certificate and any renewals thereof shall not exceed a period of 36 successive months for all annual licenses and renewals combined.

3. Provisional Licenses/Certificates

a. A provisional license or certificate shall be issued when the facility:

STANDARDS FOR INTERDEPARTMENTAL REGULATION OF CHILDREN'S
RESIDENTIAL FACILITIES

(1) Applies for renewal while holding an annual or triennial license or certificate, and during the licensure or certification period there have been two or more occasions when systemic deficiencies have been identified without the facility taking acceptable, documented corrective action; or

(2) Applies for renewal while holding a conditional license or certificate and, during the licensure or certification period, has demonstrated that its programs and services do not substantially comply with the interdepartmental standards or other applicable regulations or statutes.

b. A provisional license or certificate may be renewed, but a provisional license or certificate and any renewals thereof shall not exceed a period of six successive months for all provisional licenses and renewals combined.

c. A facility holding a provisional license or certificate shall demonstrate progress toward compliance.

4. Conditional Licenses/Certificates

a. A conditional license or certificate shall be issued to a facility which demonstrates an acceptable level of compliance and is:

(1) Beginning initial operation and whose sponsor is not operating one or more additional facilities regulated through the Interdepartmental Regulatory Program; or

STANDARDS FOR INTERDEPARTMENTAL REGULATION OF CHILDREN'S
RESIDENTIAL FACILITIES

(2) Sponsored by a currently established Interdepartmental Regulatory Program

sponsor who is beginning operation, at a new or currently regulated site, of a program serving a different target population than that being served by the sponsor.

b. A facility holding a conditional license or certificate shall demonstrate progress toward compliance.

c. A conditional license or certificate may be renewed, but a conditional license or certificate and any renewals thereof shall not exceed a period of six successive months for all conditional licenses and renewals combined.

C. The term of a facility's license or certificate may be modified at any time during the licensure or certification period based on a change in the facility's compliance with this regulation.

22 VAC 42-10-85. Summary suspension.

A. In conjunction with any proceeding for revocation, denial, or other action, when conditions or practices exist that pose an immediate and substantial threat to the health, safety, and welfare of the residents, the lead regulatory authority agency head may issue an order of summary suspension of the license or certificate to operate a children's residential facility when he believes the operation of the facility should be suspended during the pendency of such proceeding.

STANDARDS FOR INTERDEPARTMENTAL REGULATION OF CHILDREN'S
RESIDENTIAL FACILITIES

B. Prior to the issuance of an order of summary suspension, the regulatory authority shall contact the Executive Secretary of the Supreme Court of Virginia to obtain the name of a hearing officer. The lead regulatory authority shall schedule the time, date, and location of the administrative hearing with the hearing officer.

C. The order of summary suspension shall take effect upon its issuance. It shall be delivered by personal service and certified mail, return receipt requested, to the address of record of the facility as soon as practicable. The order shall set forth:

1. The time, date, and location of the hearing;
2. The procedures for the hearing;
3. The hearing and appeal rights; and
4. Facts and evidence that formed the basis for the order of summary suspension.

D. The hearing shall take place within three business days of the issuance of the order of summary suspension.

E. The regulatory authority shall have the burden of proving in any summary suspension hearing that it had reasonable grounds to require the facility to cease operations during the pendency of the concurrent revocation, denial, or other proceeding.

F. The administrative hearing officer shall provide written findings and conclusions, together with a recommendation as to whether the license or certificate should be

STANDARDS FOR INTERDEPARTMENTAL REGULATION OF CHILDREN'S
RESIDENTIAL FACILITIES

summarily suspended, to the lead regulatory agency head within five business days of the hearing.

G. The lead regulatory agency head shall issue a final order of summary suspension or make a determination that the summary suspension is not warranted based on the facts presented and the recommendation of the hearing officer with seven business days of receiving the recommendation of the hearing officer.

H. The lead regulatory agency head shall issue and serve on the children's residential facility or its designee by personal service or by certified mail, return receipt requested either:

1. A final order of summary suspension including (i) the basis for accepting or rejecting the hearing officer's recommendations, and (ii) notice that the children's residential facility may appeal the lead regulatory agency head's decision to the appropriate circuit court no later than 10 days following issuance of the order; or

2. Notification that the summary suspension is not warranted by the facts and circumstances presented and that the order of summary suspension is rescinded.

I. The facility may appeal the lead regulatory agency head's decision on the summary suspension to the appropriate circuit court no more than ten days after issuance of the final order.

STANDARDS FOR INTERDEPARTMENTAL REGULATION OF CHILDREN'S
RESIDENTIAL FACILITIES

J. The outcome of concurrent revocation, denial, and other proceedings shall not be affected by the outcome of any hearing pertaining to the appropriateness of the order of summary suspension.

K. At the time of the issuance of the order of summary suspension, the lead regulatory authority shall contact the appropriate agencies to inform them of the action and the need to develop relocation plans for residents, and ensure that parents and guardians are informed of the pending action.

22 VAC 42-10-180. Health information.

A. Health information required by this section shall be maintained for each staff member and for each individual who resides in a building occupied by residents, including each person who is not a staff member or resident of the facility.

B. ~~Initial Screening for tuberculosis~~ Tuberculosis Evaluation.

1. At the time of hire, Each each individual shall obtain submit the results of an evaluation a risk assessment documenting the absence of tuberculosis in a communicable form as evidenced by the completion of a current screening form published by the Virginia Department of Health. ~~no earlier than~~ The risk assessment shall be no older than 30 days before or no later than seven days after employment or contact with residents.

STANDARDS FOR INTERDEPARTMENTAL REGULATION OF CHILDREN'S
RESIDENTIAL FACILITIES

2. Each individual shall annually submit the results of a ~~Mantoux tuberculin skin test, chest x-ray or bacteriological examination, as deemed appropriate by the examining physician,~~ risk assessment, documenting that the individual is free of tuberculosis in a communicable form as evidenced by the completion of a current screening form published by the Virginia Department of Health.
3. ~~The documentation shall include all information contained on a "Report of Tuberculosis Screening" form recommended by the Virginia Department of Health.~~
4. An evaluation shall not be required for an individual who (i) has separated from employment with a facility licensed or certified by the Commonwealth of Virginia, (ii) has a break in service of six months or less, and (iii) submits ~~the~~ a copy of the original statement of tuberculosis screening to his new employer.

C. Subsequent Evaluations for Tuberculosis

1. An individual who comes in contact with a known case of infectious tuberculosis shall be screened as determined appropriate based on consultation with the local health department.
2. An individual who develops chronic respiratory symptoms of three weeks duration shall be evaluated immediately for the presence of infectious tuberculosis.

STANDARDS FOR INTERDEPARTMENTAL REGULATION OF CHILDREN'S
RESIDENTIAL FACILITIES

D. An individual suspected of having infectious tuberculosis shall not be permitted to return to work or have contact with staff or residents until a physician has determined that the individual is free of infectious tuberculosis.

E. The facility shall report any active case of tuberculosis developed by a staff member to the local health department.

22 VAC 42-10-200. Qualifications.

A. Standards establishing minimum position qualifications shall be applicable to all facilities. In lieu of the minimum position qualifications contained in this chapter, facilities subject to (i) the rules and regulations of the Virginia Department of ~~Personnel and Training~~ Human Resource Management, or (ii) the rules and regulations of a local government personnel office may develop written minimum entry level qualifications in accord with the rules and regulations of the supervising personnel authority.

B. A person who assumes or is designated to assume the responsibilities of a position or any combination of positions described in these standards shall:

1. Meet the qualifications of the position or positions;
2. Fully comply with all applicable standards for each function; and
3. Demonstrate a working knowledge of the policies and procedures that are applicable to his specific position or positions.

STANDARDS FOR INTERDEPARTMENTAL REGULATION OF CHILDREN'S
RESIDENTIAL FACILITIES

C. When services or consultation are obtained on a contractual basis they shall be provided by professionally qualified personnel.

22 VAC 42-10-210. Job descriptions.

A. There shall be a written job description for each position which, at a minimum, includes the:

1. Job title;
2. Duties and responsibilities of the incumbent;
3. Job title of the immediate supervisor; and
4. Minimum education, experience, knowledge, skills and abilities required for entry level performance of the job.

B. A copy of the job description shall be given to each person assigned to a position at the time of employment or assignment.

22 VAC 42-10-220. Written personnel policies and procedures.

A. The licensee shall approve written personnel policies and make its written personnel policies readily accessible to each staff member.

B. The facility shall develop and implement written policies and procedures to assure that persons employed in or designated to assume the responsibilities of each position possess the education, experience, knowledge, skills and abilities specified in the job description for the position.

STANDARDS FOR INTERDEPARTMENTAL REGULATION OF CHILDREN'S
RESIDENTIAL FACILITIES

~~C. Written policies and procedures related to child abuse and neglect shall be distributed to all staff members. These shall include procedures for:~~

- ~~1. Handling accusations against staff; and~~
- ~~2. Promptly referring, consistent with requirements of the Code of Virginia, suspected cases of child abuse and neglect to the local child protective services unit; and~~
- ~~3. Cooperating with the unit during any investigation.~~

22 VAC 42-10-230. Personnel records.

A. Separate up-to-date written or automated personnel records shall be maintained for each employee and volunteer and contractual service provider for whom background investigations are required by Virginia statute. Content of personnel records of volunteers and contractual service providers may be limited to documentation of compliance with requirements of Virginia laws regarding child protective services and criminal history background investigations.

B. The records of each employee shall include:

1. A completed employment application form or other written material providing the individual's name, address, phone number, and social security number;
2. Educational background and employment history;
3. Written references or notations of oral references;
4. Reports of required health examinations;

STANDARDS FOR INTERDEPARTMENTAL REGULATION OF CHILDREN'S
RESIDENTIAL FACILITIES

5. Annual performance evaluations;
6. Date of employment and separation; ~~and~~
7. Documentation of compliance with requirements of Virginia laws regarding child protective services and criminal history background investigations;
8. Documentation of educational degrees and of professional certification or licensure;
and
9. Documentation of all training required by this regulation and any other training received by individual staff.

C. Personnel records shall be retained in their entirety for three years after separation from employment, contractual service, or volunteer service.

22 VAC 42-10-255. The applicant.

A. Each applicant shall show evidence that they have been trained on appropriate siting of children's residential facilities.

B. The applicant shall be interviewed in person by the regulatory authority to determine the qualifications of the owner or operator as set out in this regulation.

C. Should the applicant not be qualified to perform the duties of the chief administrative officer, the applicant shall hire an individual with the qualifications as set out in this regulation to perform the duties of the chief administrative officer.

22 VAC 42-10-260. The chief administrative officer.

STANDARDS FOR INTERDEPARTMENTAL REGULATION OF CHILDREN'S
RESIDENTIAL FACILITIES

A. The chief administrative officer shall have the following responsibilities:

1. Responsibility for the compliance with the Standards for Interdepartmental Regulation of Children's Residential Facilities;

2. Responsibility for all personnel;

3. Overseeing facility operation in its entirety, including the approval of the design of the structured program of care and its implementation; and

4. Responsibility for the facility's financial integrity.

B. A chief administrative officer appointed after July 1, 2000 the effective date of these standards shall have at least:

1. A baccalaureate degree from an accredited college or university in the field of human services, institutional management, social work, education or other allied discipline; or A master's degree in social work, psychology, or counseling and three years of full time paid work experience in a children's residential facility and two years full time experience in an administrative or supervisory capacity for a total of five years experience; or

2. A baccalaureate degree from an accredited college or university with two years of successful work experience with children in the field of institutional management, social work, education or other allied profession. A baccalaureate degree in social work, psychology, or counseling and five years full time paid work experience with children, at

STANDARDS FOR INTERDEPARTMENTAL REGULATION OF CHILDREN'S
RESIDENTIAL FACILITIES

least three of which were in a children's residential facility and an additional two years of administrative or supervisory experience for a total of seven years experience; or

3. A degree in education may be accepted for a chief administrative officer of a program whose lead regulatory agency is the Department of Education; or

4. A degree and experience in human services as approved by the lead regulatory authority.

C. Any applicant for the chief administrative officer position shall submit the following to demonstrate compliance with the qualifications required by this regulation for the chief administrative officer:

1. Official transcripts by the college or university of attendance within 30 days of hire;
and

2. Documentation of prior relevant experience.

22 VAC 42-10-270. Program ~~direction~~ director.

A. The facility's program shall be directed by one or more qualified persons.

B. Persons directing programs shall be responsible for the development and implementation of the programs and services offered by the facility including overseeing assessments, service planning, staff scheduling and supervision.

C. Persons directing programs of a facility licensed or certified to care for 13 or more residents shall be full-time, qualified staff members.

STANDARDS FOR INTERDEPARTMENTAL REGULATION OF CHILDREN'S
RESIDENTIAL FACILITIES

D. A person appointed after ~~July 1, 1984~~ the effective date of these standards, to direct programs shall have at least:

1. ~~A baccalaureate degree from an accredited college or university with two years of successful work experience with children in the field of institutional management, social work, education or other allied discipline;~~ A master's degree in social work, psychology, or counseling and three years of full time paid work experience with children, one of which needs to be in a children's residential facility; or
2. ~~A graduate degree from an accredited college or university in a profession related to child care and development; or~~ A baccalaureate degree in social work, psychology, or counseling and five years full time paid experience as an employee working with children, two of which must be in a children's residential facility; or
3. A license or certificate issued by the Commonwealth of Virginia as a drug or alcoholism counselor/worker if the facility's purpose is to treat drug abuse or alcoholism;
or
4. A degree and experience in human services as approved by the lead regulatory authority.

E. Any applicant for the program director position shall submit the following to demonstrate compliance with the qualifications required by this regulation for the program director:

STANDARDS FOR INTERDEPARTMENTAL REGULATION OF CHILDREN'S
RESIDENTIAL FACILITIES

1. Official transcripts by the college or university of attendance within 30 days of hire;

and

2. Documentation of prior relevant experience.

22 VAC 42-10-330. Buildings, inspections and building plans.

A. All buildings and building related equipment shall be inspected and approved by the local building official. Approval shall be documented by a certificate of occupancy indicating that the building is classified for its proposed use.

B. The facility shall document at the time of its original application and annually thereafter that buildings and equipment are maintained in accordance with the Virginia Statewide Fire Prevention Code (13 VAC 5-51-10 et.seq.).

C. At the time of the original application and at least annually thereafter the buildings shall be inspected and approved by state or local health authorities, whose inspection and approval shall include:

1. General sanitation;
2. The sewage disposal system;
3. The water supply;
4. Food service operations; and
5. Swimming pools.

STANDARDS FOR INTERDEPARTMENTAL REGULATION OF CHILDREN'S
RESIDENTIAL FACILITIES

D. The buildings and physical environment shall provide adequate space and shall be of a design that is suitable to house the programs and services provided and meet specialized needs of the residents.

E. Building plans and specifications for new construction, change in use of existing buildings, and any structural modifications or additions to existing buildings shall be submitted to and approved by the licensure or certification authority and by other appropriate regulatory authorities.

22 VAC 42-10-530. Admission procedures.

A. The facility shall have written criteria for admission which shall include:

1. A description of the population to be served;
2. A description of the types of services offered; ~~and~~
3. Intake and admission procedures;
4. Exclusion criteria to define those behaviors or problems that the facility does not have the staff with experience or training to manage; and
5. Description of how educational services will be provided to the population being served.

B. The facility's criteria for admission shall be accessible to prospective residents, legal guardians, and placing agencies.

STANDARDS FOR INTERDEPARTMENTAL REGULATION OF CHILDREN'S
RESIDENTIAL FACILITIES

C. The facility shall accept and serve only those children whose needs are compatible with the services provided through the facility unless a child's admission is ordered by a court of competent jurisdiction.

D. Acceptance of a child as eligible for respite care by a facility approved to provide residential respite care is considered admission to the facility. Each individual period of respite care is not considered a separate admission.

E. Each facility shall provide documentation showing proof of contractual agreements or staff expertise to provide educational services, counseling services, psychological services, medical services, or any other services needed to serve the residents in accordance with the facility's program description as defined by the facility's criteria of admission.

22 VAC 42-10-570. Emergency and self-admissions.

Facilities accepting emergency or self-admissions shall:

1. Have and implement written policies and procedures governing such admissions which shall include procedures to make and document prompt efforts to obtain (i) a written placement agreement signed by the legal guardian or (ii) the order of a court of competent jurisdiction;

STANDARDS FOR INTERDEPARTMENTAL REGULATION OF CHILDREN'S
RESIDENTIAL FACILITIES

2. Place in each resident's record the order of a court of competent jurisdiction, a written request for care, or documentation of an oral request for care; and justification of why the resident is to be admitted on an emergency basis; and

3. ~~Have and implement written policies and procedures for obtaining (i) a written placement agreement signed by the legal guardian or (ii) the order of a court of competent jurisdiction.~~ Clearly document in written assessment information gathered for the emergency admission that the individual meets the facility's criteria for admission.

22 VAC 42-10-580. Application for admission.

A. Admission, other than an emergency or diagnostic admission, shall be based on evaluation of an application for admission. The requirements of this section do not apply to (i) temporary care facilities, (ii) court ordered placements, or (iii) transfer of a resident between residential facilities located in Virginia and operated by the same sponsor.

B. Facilities accepting routine admissions shall develop, and fully complete prior to acceptance for care, an application for admission which is designed to compile information necessary to determine:

1. The physical needs of the prospective resident;
2. The educational needs of the prospective resident;
3. The mental health, emotional and psychological needs of the prospective resident;

STANDARDS FOR INTERDEPARTMENTAL REGULATION OF CHILDREN'S
RESIDENTIAL FACILITIES

4. The physical health needs, including the immunization needs, of the prospective resident;
 5. The protection needs of the prospective resident;
 6. The suitability of the prospective resident's admission;
 7. ~~Whether the prospective resident's admission would pose any significant risk to (i) the prospective resident or (ii) the facility's residents or staff~~ The behavior support needs of the prospective resident; and
 8. Information necessary to develop a service plan.
- C. The resident's record shall contain a completed application for admission at the time of a routine admission or within 30 days after an emergency admission.
- D. Each facility shall develop and implement written policies and procedures to assess each prospective resident as part of the application process to ensure that:
1. The needs of the prospective resident can be addressed by the facility's services;
 2. The facility's staff are trained to meet the prospective resident's needs; and
 3. The admission of the prospective resident would not pose any significant risk to (i) the prospective resident or (ii) the facility's residents or staff.
- 22 VAC 42-10-600. Written placement agreement.
- A. The facility, except a facility which accepts admission only upon receipt of the order of a court of competent jurisdiction, shall develop a written placement agreement which:

STANDARDS FOR INTERDEPARTMENTAL REGULATION OF CHILDREN'S
RESIDENTIAL FACILITIES

1. Authorizes the resident's placement;
2. Addresses acquisition of and consent for any medical treatment needed by the resident;
3. Addresses the rights and responsibilities of each party involved;
4. Addresses financial responsibility for the placement;
5. Addresses resident absences from the facility; ~~and~~
6. Addresses visitation with the resident; and
7. Addresses the education plan for the resident and the responsibilities of all parties.

B. Each resident's record shall contain, prior to a routine admission, a completed placement agreement signed by the legal guardian or placing agency, except as permitted for temporary emergency shelters pursuant to § ~~63.1-204~~ 63.2-1817 of the Code of Virginia.

C. The record of each person admitted based on a court order shall contain a copy of the court order.

22 VAC 42-10-690. Structured program of care.

A. There shall be evidence of a structured program of care designed to:

1. Meet the residents' physical and emotional needs;
2. Provide protection, guidance and supervision; and
3. Meet the objectives of any required service plan.

STANDARDS FOR INTERDEPARTMENTAL REGULATION OF CHILDREN'S
RESIDENTIAL FACILITIES

B. There shall be evidence of a structured daily routine designed to ensure the delivery of program services.

C. A daily activity log shall be maintained to inform staff of significant happenings or problems experienced by residents.

D. Health and dental complaints and injuries shall be recorded and shall include the (i) resident's name, complaint, and affected area and (ii) time of the complaint.

E. The identity of the individual making each entry in the daily activity log shall be recorded.

F. Routines shall be planned to ensure that each resident receives the amount of sleep and rest appropriate for his age and physical condition.

G. Staff shall promote good personal hygiene of residents by monitoring and supervising hygiene practices each day and by providing instruction when needed.

H. The structured daily routine shall comply with any facility and locally imposed curfews.

22 VAC 42-10-700. Health care procedures.

A. The facility shall have and implement written procedures for promptly:

1. Providing or arranging for the provision of medical and dental services for health problems identified at admission;

STANDARDS FOR INTERDEPARTMENTAL REGULATION OF CHILDREN'S
RESIDENTIAL FACILITIES

2. Providing or arranging for the provision of routine ongoing and follow-up medical and dental services after admission;

3. Providing emergency services for each resident as provided by statute or by the agreement with the resident's legal guardian, and

4. Providing emergency services for any resident experiencing or showing signs of suicidal or homicidal thoughts, symptoms of mood or thought disorders, or other mental health problems.

B. The following written information concerning each resident shall be readily accessible to staff who may have to respond to a medical or dental emergency:

1. Name, address, and telephone number of the physician and dentist to be notified;

2. Name, address, and telephone number of a relative or other person to be notified;

3. Medical insurance company name and policy number or Medicaid number;

4. Information concerning:

a. Use of medication;

b. ~~Medication~~ All allergies, including medication allergies;

c. Substance abuse and use; and

d. Significant past ~~or~~ and present medical problems; and

5. Written permission for emergency medical care, dental care, and obtaining immunizations or a procedure and contacts for obtaining consent; and

STANDARDS FOR INTERDEPARTMENTAL REGULATION OF CHILDREN'S
RESIDENTIAL FACILITIES

6. Subsections 3 and 5 do not apply to secure detention facilities except when a resident is confined in detention with a suspended commitment to the Department of Juvenile Justice.

C. Facilities approved to provide respite care shall update the information required by subsection B of this section at the time of each stay at the facility.

22 VAC 42-10-710. Medical examinations and treatment.

A. Each child accepted for care shall have a physical examination by or under the direction of a licensed physician no earlier than 90 days prior to admission to the facility or no later than seven days following admission except (i) the report of an examination within the preceding 12 months shall be acceptable if a child transfers from one residential facility licensed or certified by a state agency to another, (ii) a physical examination shall be conducted within 30 days following an emergency admission if a report of physical examination is not available, and (iii) this requirement does not apply if a child is admitted to a secure detention facility or to a temporary care facility.

B. Each resident's record shall include written documentation of (i) the initial physical examination, (ii) an annual physical examination by a licensed physician including any recommendation for follow up care, and (iii) documentation of the provision of follow-up medical care recommended by the physician or as indicated by the needs of the resident.

STANDARDS FOR INTERDEPARTMENTAL REGULATION OF CHILDREN'S
RESIDENTIAL FACILITIES

C. Each physical examination report shall include:

1. Information necessary to determine the health and immunization needs of the resident, including:

- a. Immunizations administered at the time of the exam;
- b. Vision exam;
- c. Hearing exam;
- d. General physical condition, including documentation of apparent freedom from communicable disease including tuberculosis;
- e. Allergies, chronic conditions, and handicaps, if any;
- f. Nutritional requirements, including special diets, if any;
- g. Restrictions on physical activities, if any; and
- h. Recommendations for further treatment, immunizations, and other examinations indicated;

2. Date of the physical examination; and

3. Signature of a licensed physician, the physician's designee, or an official of a local health department.

D. A child with a communicable disease shall not be admitted unless a licensed physician certifies that:

STANDARDS FOR INTERDEPARTMENTAL REGULATION OF CHILDREN'S
RESIDENTIAL FACILITIES

1. The facility is capable of providing care to the child without jeopardizing residents and staff; and

2. The facility is aware of the required treatment for the child and the procedures to protect residents and staff.

The requirements of this subsection shall not apply to temporary emergency shelters and secure detention facilities.

E. Each resident's record shall include written documentation of (i) an annual examination by a licensed dentist and (ii) documentation of follow-up dental care recommended by the dentist or as indicated by the needs of the resident. This requirement does not apply to secure detention facilities, temporary care facilities, and respite care facilities.

F. Each resident's record shall include notations of health and dental complaints and injuries and shall summarize symptoms and treatment given.

G. Each resident's record shall include, or document the facility's efforts to obtain, treatment summaries of ongoing psychiatric or other mental health treatment and reports, if applicable. This subsection does not apply to secure detention facilities except when a juvenile is confined in detention with a suspended commitment to the Department of Juvenile Justice.

STANDARDS FOR INTERDEPARTMENTAL REGULATION OF CHILDREN'S
RESIDENTIAL FACILITIES

H. Written policies and procedures, which include use of universal precautions, shall be developed and implemented to address communicable and contagious medical conditions.

I. All staff shall be trained within 30 days of employment and annually thereafter on the facility's policies and procedures regarding universal precautions.

J. A well stocked first-aid kit shall be maintained and readily accessible for minor injuries and medical emergencies.

22 VAC 42-10-720. Medication.

A. All medication shall be securely locked and properly labeled.

B. All staff responsible for medication administration shall have successfully completed a medication training program approved by the Board of Nursing or be licensed by the Commonwealth of Virginia to administer medications.

C. Medication shall be administered only by staff authorized to do so by the director.

D. Staff authorized to administer medication shall be informed of any known side effects of the medication and the symptoms of the effects.

E. A program of medication, including over-the-counter medication, shall be initiated for a resident only when prescribed in writing by a ~~licensed physician~~ person authorized by law to prescribe medication.

STANDARDS FOR INTERDEPARTMENTAL REGULATION OF CHILDREN'S
RESIDENTIAL FACILITIES

F. Medication prescribed by a ~~licensed physician~~ person authorized by law shall be administered as prescribed.

G. A ~~daily log~~ medication administration record shall be maintained of all medicines received by each resident and shall ~~identify the individual who administered the medication.~~ include:

1. Date the medication was prescribed;
2. Drug name;
3. Schedule for administration;
4. Strength;
5. Route;
6. Actual time administered;
7. Identity of the individual who administered the medication; and
8. Dates the medication was discontinued or changed.

H. In the event of a medication error or an adverse drug reaction, first aid shall be administered if indicated. Staff shall promptly contact a poison control center, pharmacist, nurse, or physician and shall take actions as directed. If the situation is not addressed in standing orders, the attending physician shall be notified as soon as possible and the actions taken by staff shall be documented.

STANDARDS FOR INTERDEPARTMENTAL REGULATION OF CHILDREN'S
RESIDENTIAL FACILITIES

I. Medication refusals shall be documented including action taken by staff. The prescribing professional shall be contacted unless the refusal is addressed in standing orders.

J. ~~At least one unexpired 30 cc bottle of Syrup of Ipecac and one unexpired container of activated charcoal shall be available on the premises of the facility for use at the direction of the poison control center or physician and shall be kept locked when not in use~~ The provider shall develop and implement written policies and procedures for documenting medication errors, reviewing medication errors and reactions and making any necessary improvements, the disposal of medication, the storage of controlled substances, and the distribution of medication off campus. The policy must be approved by a health care professional. The provider shall keep documentation of this approval.

K. The telephone number of a regional poison control center shall be posted on or next to each nonpay telephone that has access to an outside line in each building in which children sleep or participate in programs.

L. Syringes and other medical implements used for injecting or cutting skin shall be locked.

22 VAC 42-10-740. Staff Supervision of Children.

STANDARDS FOR INTERDEPARTMENTAL REGULATION OF CHILDREN'S
RESIDENTIAL FACILITIES

A. No member of the child care staff shall be on duty more than six consecutive days without a rest day except in an emergency.

B. Child care staff shall have an average of at least two rest days per week in any four-week period. Rest days shall be in addition to vacation time and holidays.

C. Child care staff other than live-in staff shall not be on duty more than 16 consecutive hours except in an emergency.

D. There shall be at least one trained child care worker on the premises, on duty and actively supervising children at all times that one or more children are present.

E. Supervision Policies

1. The facility shall develop and implement written policies and procedures which address staff supervision of children including contingency plans for resident illnesses, emergencies, off campus activities, and resident preferences.

2. Written policies and procedures governing supervision of children shall be reviewed and approved by the regulatory authority prior to implementation.

3. The supervision policies or a summary of the policies shall be provided, upon request, to the placing agency or legal guardian prior to placement.

F. During the hours that children are scheduled to be awake there shall be at least one child care staff member awake, on duty and responsible for supervision of every 10

STANDARDS FOR INTERDEPARTMENTAL REGULATION OF CHILDREN'S
RESIDENTIAL FACILITIES

children, or portion thereof, on the premises or participating in off-campus, facility-sponsored activities except:

1. Independent living programs shall have at least one child care staff member awake, on duty and responsible for supervision of every 15 children on the premises or participating in off-campus, facility-sponsored activities;
2. For children under four years of age, there shall be at least one child care staff member awake, on duty and responsible for supervision of every three children who are on the premises or participating in off-campus, facility-sponsored activities except that this requirement does not apply to severely multi-handicapped, nonambulatory children;
3. For severely multi-handicapped, nonambulatory children, there shall be at least one child care staff member awake, on duty and responsible for supervision of every six children;
4. Programs that accept mothers and their children shall have at least one child care staff member awake, on duty and responsible for supervision of every six children (counting both mothers and their children); and
5. Except when exempted by the regulatory authorities, programs that are licensed or certified by the Department of Mental Health, Mental Retardation and Substance Abuse Services to provide treatment services for children with diagnosed mental illness or diagnosed severe emotional or behavioral problems where close supervision is

STANDARDS FOR INTERDEPARTMENTAL REGULATION OF CHILDREN'S
RESIDENTIAL FACILITIES

indicated shall have at least one child care staff member awake, on duty and responsible for supervision of every eight children.

G. During the hours that residents are scheduled to sleep there shall be no less than one child care staff member on duty and responsible for supervision of every 16 children, or portion thereof, on the premises, except for programs that accept mothers and their children, there shall be at least one child care staff member in the building, on duty and responsible for every 10 residents.

H. There shall be at least one child care staff member on duty and responsible for the supervision of residents in each building where residents are sleeping. When there are 16 or more residents in a building, the staff person shall remain awake, and the ratio of one staff person to every 16 residents or portion thereof shall be maintained. For less than 16 residents in the building, the staff person may sleep but shall be on duty and responsible for supervision. This requirement does not apply to approved independent living programs.

I. On each floor where children are sleeping, there shall be at least one child care staff member awake and on duty for every 30 children or portion thereof.

22 VAC 42-10-750. Emergency telephone numbers.

~~A. Residents who are away from the facility and the adults responsible for their care during the absence shall be furnished with a telephone number where a responsible~~

STANDARDS FOR INTERDEPARTMENTAL REGULATION OF CHILDREN'S
RESIDENTIAL FACILITIES

~~facility staff member or other responsible adult may be reached at all times. This subsection does not apply to residents of secure detention facilities.~~ There shall be an emergency telephone number where a staff person may be immediately contacted 24 hours a day.

~~B. When children are on the premises of the facility, the staff on duty shall be furnished with a telephone number where the administrator or his designee may be reached at all times.~~ Residents who are away from the facility and the adults responsible for their care during the absence shall be furnished with the emergency phone number.

22 VAC 42-10-780. Management of resident behavior.

A. The facility shall ~~have~~ develop and implement written policies and procedures for behavior management and for documenting and monitoring the management of resident behavior. Rules of conduct, if any, shall be included in the written policies and procedures. These policies and procedures shall:

1. Define and list techniques that are used and are available for use in the order of their relative degree of restrictiveness;
2. Specify the staff positions who may use each technique;
3. Specify the processes for implementing such policies and procedures.

B. Written information concerning management of resident behavior shall be provided prior to admission to prospective residents, except those with diagnosed mental

STANDARDS FOR INTERDEPARTMENTAL REGULATION OF CHILDREN'S
RESIDENTIAL FACILITIES

disabilities resulting in the loss of the cognitive ability to understand the information, legal guardians, and referral agencies. For court ordered and emergency admissions, this information shall be provided to:

1. Residents, except those with diagnosed mental disabilities resulting in the loss of the cognitive ability to understand the information, within 12 hours following admission;
 2. Referral agencies within 72 hours following the resident's admission; and
 3. Legal guardians within 72 hours following the resident's admission except that this requirement does not apply:
 - a. To secure detention facilities except when a juvenile is confined in detention with a suspended commitment to the Department of Juvenile Justice;
 - b. When a facility is providing temporary care of 30 days or less while conducting a diagnostic evaluation to identify the most appropriate long-term placement for a child who has been committed to the Department of Juvenile Justice; and
 - c. When a state mental hospital is evaluating a child's treatment needs as provided by the Code of Virginia.
- C. When substantive revisions are made to policies governing management of resident behavior, written information concerning the revisions shall be provided to:
1. Residents prior to implementation, except for those residents with diagnosed mental disabilities resulting in the loss of the cognitive ability to understand the information; and

STANDARDS FOR INTERDEPARTMENTAL REGULATION OF CHILDREN'S
RESIDENTIAL FACILITIES

2. Legal guardians and referral agencies except that this requirement does not apply:

a. To secure detention facilities;

b. When a facility is providing temporary care of 30 days or less while conducting a diagnostic evaluation to identify the most appropriate long-term placement for a child who has been committed to the Department of Juvenile Justice; and

c. When a state mental hospital is evaluating a child's treatment needs as provided by the Code of Virginia.

D. Only trained staff members may manage resident behavior.

E. All direct care staff shall receive annual retraining on the provider's behavior management policies and procedures.

22 VAC 42-10-790. Confinement.

A. The facility shall have and implement written policies and procedures governing the conditions under which a resident may be confined and the maximum period of confinement. The conditions and maximum period of confinement shall be based on the resident's chronological and developmental level.

B. The room in which a resident is confined shall not be locked nor the door secured in a manner that prevents the resident from opening it, except that this subsection does not apply to secure custody facilities.

C. A confined resident shall be able to communicate with staff.

STANDARDS FOR INTERDEPARTMENTAL REGULATION OF CHILDREN'S
RESIDENTIAL FACILITIES

D. Staff shall check on the resident in the room at least every ~~30~~ 15 minutes and more often depending on the nature of the resident's disability, condition and behavior.

E. Use of confinement and staff checks on the residents shall be documented when confinement is used for managing resident behavior.

22 VAC 42-10-800. Prohibitions.

The following actions are prohibited:

1. Deprivation of drinking water or food necessary to meet a resident's daily nutritional needs except as ordered by a licensed physician for a legitimate medical purpose and documented in the resident's record;
2. Limitation on contacts and visits with the resident's attorney, a probation officer, regulators or placing agency representative;
3. Bans on contacts and visits with family or legal guardians except as permitted by other applicable state regulations or by order of a court of competent jurisdiction;
4. Delay or withholding of incoming or outgoing mail except as permitted by other applicable state and federal regulations or by order of a court of competent jurisdiction;
5. Any action which is humiliating, degrading, or abusive;
6. Corporal punishment;
7. Subjection to unsanitary living conditions;

STANDARDS FOR INTERDEPARTMENTAL REGULATION OF CHILDREN'S
RESIDENTIAL FACILITIES

8. Deprivation of opportunities for bathing or access to toilet facilities except as ordered by a licensed physician for a legitimate medical purpose and documented in the resident's record;
9. Deprivation of health care;
10. Deprivation of appropriate services and treatment;
11. Application of aversive stimuli except as permitted pursuant to other applicable state regulations;
12. Administration of laxatives, enemas, or emetics except as ordered by a licensed physician or poison control center for a legitimate medical purpose and documented in the resident's record;
13. Deprivation of opportunities for sleep or rest except as ordered by a licensed physician for a legitimate medical purpose and documented in the resident's record; and
14. Limitation on contacts and visits with regulators and advocates employed by the Department of Mental Health, Mental Retardation and Substance Abuse Services or the ~~Department for Rights of Virginians with Disabilities~~ Virginia Office of Protection and Advocacy.

22 VAC 42-10-820. Physical restraint.

- A. The facility shall ~~have~~ develop and implement written policies and procedures governing use of physical restraint which shall include:

STANDARDS FOR INTERDEPARTMENTAL REGULATION OF CHILDREN'S
RESIDENTIAL FACILITIES

1. The staff position who will write the report and timeframe;
2. The staff position who will review the report and timeframe; and
3. Methods to be followed should physical restraint, less intrusive interventions, or measures permitted by other applicable state regulations prove unsuccessful in calming and moderating the resident's behavior.

~~B. The facility's procedures shall include methods to be followed should physical restraint, less intrusive interventions, or measures permitted by other applicable state regulations prove unsuccessful in calming and moderating the resident's behavior.~~ All physical restraints shall be reviewed and evaluated to plan for continued staff development for performance improvement.

C. Use of physical restraint shall be limited to that which is minimally necessary to protect the resident or others.

D. Trained staff members may physically restrain a resident only after less ~~intrusive~~ restrictive interventions have failed or when failure to restrain would result in harm to the resident or others.

E. Each application of physical restraint shall be fully documented in the resident's record including:

1. Date;
2. Time;

STANDARDS FOR INTERDEPARTMENTAL REGULATION OF CHILDREN'S
RESIDENTIAL FACILITIES

3. Staff involved;
4. ~~Circumstances~~; Justification for the restraint;
5. ~~Reasons for using physical restraint~~; Less intrusive restrictive interventions which were unsuccessfully attempted prior to using physical restraint.
6. Duration;
7. ~~Method~~ Description of method or methods of physical restraint techniques used; ~~and~~
8. Signature of the person completing the report and date; and
9. Reviewer's signature and date.

F. Each staff member responsible for supervision of children shall receive basic orientation to the facility's behavior management policies, physical restraint procedures and techniques and to less intrusive restrictive interventions within seven days following employment.

1. ~~Physical restraint shall be applied only by staff who have been trained in the facility's physical restraint procedures and techniques.~~ Providers shall ensure that restraint may only be implemented, monitored, and discontinued by staff who have been trained in the proper and safe use of restraint, including hands-on techniques, if applicable, by an individual experienced in training staff in the management of behavior for the population served.

STANDARDS FOR INTERDEPARTMENTAL REGULATION OF CHILDREN'S
RESIDENTIAL FACILITIES

2. Staff shall review the facility's training in physical restraint and less ~~intrusive~~ restrictive interventions at least annually.

22 VAC 42-10-850. Education.

A. Each resident of compulsory school attendance age shall be enrolled in an appropriate educational program as provided in the Code of Virginia. Documentation of the enrollment process shall be kept in the resident's record.

B. The facility shall ensure that educational guidance and counseling in selecting courses is provided for each resident and shall ensure that education is an integral part of the resident's total program.

C. Facilities operating educational programs for children with disabilities shall operate those programs in compliance with applicable state and federal statutes and regulations.

D. When a child with disabilities has been placed in a residential facility without the knowledge of school division personnel in the resident's home locality, the facility shall contact the division superintendent of ~~public schools~~ in that locality in order to effect compliance with applicable state and federal requirements relative to the education of children with disabilities. Documentation regarding the contact with the resident's home school locality shall be kept in the resident's record.

STANDARDS FOR INTERDEPARTMENTAL REGULATION OF CHILDREN'S
RESIDENTIAL FACILITIES

E. A facility which has an academic or vocational program that is not certified or approved by the Department of Education shall document that teachers meet the qualifications to teach the same subjects in the public schools.

F. Each facility shall develop and implement written policies and procedures to ensure that each resident has adequate study time.

22 VAC 42-10-870. Recreation.

A. The facility shall have a written description of its recreation program which describes activities which are consistent (i) with the facility's total program and (ii) with the ages, developmental levels, interests, and needs of the residents.

B. The facility shall have and implement a recreation program which is consistent with the written description and which includes:

1. Opportunities for individual and group activities;
2. Free time for residents to pursue personal interests which shall be in addition to a formal recreation program except this subsection does not apply to secure custody facilities;
3. Use of available community recreational resources and facilities except this subsection does not apply to secure custody facilities;
4. Scheduling of activities so that they do not conflict with meals, religious services, educational programs or other regular events; and

STANDARDS FOR INTERDEPARTMENTAL REGULATION OF CHILDREN'S
RESIDENTIAL FACILITIES

5. Regularly scheduled indoor and outdoor recreational activities that are structured to develop skills and attitudes.

C. Recreational programs and field trips shall be directed and supervised by adults who are knowledgeable in the safeguards required for the activities.

D. For all extended recreational trips away from the facility the provider shall document trip planning to include:

1. A supervision plan for the entire duration of the activity including awake and sleeping hours;

2. Plan for safekeeping and distribution of medication;

3. Overall emergency, safety, and communication plan for the activity including emergency numbers of facility administration;

4. Staff training and experience requirements for each activity;

5. Resident preparation for each activity;

6. Plan to ensure that all necessary equipment for the activity is in good repair and appropriate for the activity;

7. Trip schedule giving addresses and phone numbers of locations to be visited and how the location was chosen/evaluated;

STANDARDS FOR INTERDEPARTMENTAL REGULATION OF CHILDREN'S
RESIDENTIAL FACILITIES

8. Plan to evaluate residents' physical health throughout the activity and to ensure that the activity is conducted within the boundaries of the resident's capabilities, dignity and respect for self-determination;

9. Plan to ensure that a certified life guard supervises all aquatic activities in which residents participate; and

10. Documentation of any variations from trip plans and reason for the variation.

22 VAC 42-10-880. Community relationships.

A. Opportunities shall be provided for the residents to participate in activities and to utilize resources in the community except this section does not apply to secure custody facilities.

B. The facility shall have and implement written procedures for evaluating persons or organizations in the community who wish to associate with residents on the premises or take residents off the premises. The procedures shall cover how the facility will determine if participation in such community activities or programs would be in the residents' best interest.

C. Each facility shall have a staff community liaison who shall be responsible for facilitating cooperative relationships with neighbors, the school system, local law enforcement, local government officials, and the community at large.

STANDARDS FOR INTERDEPARTMENTAL REGULATION OF CHILDREN'S
RESIDENTIAL FACILITIES

D. Each facility shall develop and implement written policies and procedures for promoting positive relationships with the neighbors that shall be approved by the regulatory authority.

E. Each facility shall show evidence that staff have been trained on good neighbor policies and community relations.

22 VAC 42-11- 970 Emergency and evacuation procedures.

~~A. Written procedures shall be developed and implemented for responding to emergencies including, but not necessarily limited to:~~

~~1. Severe weather;~~

~~2. Loss of utilities;~~

~~3. Missing persons;~~

~~4. Severe injury; and~~

~~5. Emergency evacuation, including alternate housing.~~

The provider shall develop a written emergency preparedness and response plan for all locations. The plan shall address:

1. Documentation of contact with the local emergency coordinator to determine local disaster risks and communitywide plans to address different disasters and emergency situations;

STANDARDS FOR INTERDEPARTMENTAL REGULATION OF CHILDREN'S
RESIDENTIAL FACILITIES

2. Analysis of the provider's capabilities and potential hazards, including natural disasters, severe weather, fire, flooding, work place violence or terrorism, missing persons, severe injuries, or other emergencies that would disrupt the normal course of service delivery;

3. Written emergency management policies outlining specific responsibilities for provision of administrative direction and management of response activities, coordination of logistics during the emergency, communications, life safety of employees, contractors, students, volunteers, visitors and residents, property protection, community outreach, and recovery and restoration;

4. Written emergency response procedures for assessing the situation; protecting residents, employees, contractors, students, volunteers, visitors, equipment and vital records; and restoring services. Emergency procedures shall address:

a. Communicating with employees, contractors and community responders;

b. Warning and notification of residents;

c. Providing emergency access to secure areas and opening locked doors;

d. Conducting evacuations of emergency shelters or alternative sites and accounting for all residents;

e. Relocating residents, if necessary;

f. Notifying family members and legal guardians;

STANDARDS FOR INTERDEPARTMENTAL REGULATION OF CHILDREN'S
RESIDENTIAL FACILITIES

g. Alerting emergency personnel and sounding alarms;

h. Locating and shutting off utilities when necessary;

5. Supporting documents that would be needed in an emergency, including emergency call lists, building and site maps necessary to shut off utilities, designated escape routes, and list of major resources such as local emergency shelters; and

6. Schedule for testing the implementation of the plan and conducting emergency preparedness drills.

~~B. Written procedures shall address responsibilities of staff and residents regarding:~~

~~1. Sounding of an alarm;~~

~~2. Emergency evacuation including assembly points, head counts, primary and secondary means of egress, evacuation of children with special needs, and verifying complete evacuation of the buildings;~~

~~3. Alerting emergency authorities; and~~

~~4. Use of emergency equipment.~~

The provider shall develop and implement emergency preparedness and response training for all employees, contractors, students, and volunteers within 14 days of begin date or before an individual is alone supervising residents and annually thereafter.

Training shall cover responsibilities for:

1. Alerting emergency personnel and sounding alarms;

STANDARDS FOR INTERDEPARTMENTAL REGULATION OF CHILDREN'S
RESIDENTIAL FACILITIES

2. Implementing evacuation procedures, including evacuation of residents with special needs (i.e., deaf, blind, non-ambulatory);

3. Using, maintaining, and operating emergency equipment;

4. Accessing emergency information for residents including medical information; and

5. Utilizing community support services.

~~C. Emergency procedures shall address the handling of residents with special needs.~~

The provider shall document the review of the emergency preparedness plan annually and make necessary revisions. Such revisions shall be communicated to employees, contractors, students, and volunteers and incorporated into training for employees, contractors, students and volunteers and orientation of residents to services.

D. In the event of a disaster, fire, emergency or any other condition that may jeopardize the health, safety and welfare of residents, the provider shall take appropriate action to protect the health, safety and welfare of the residents and take appropriate action to remedy the conditions as soon as possible.

E. Employees, contractors, students, and volunteers shall be knowledgeable in and prepared to implement the emergency preparedness plan in the event of an emergency.

F. In the event of a disaster, fire, emergency, or any other condition that may jeopardize the health, safety and welfare of residents, the provider should first respond and stabilize the disaster/emergency. After the disaster/emergency is stabilized, the

STANDARDS FOR INTERDEPARTMENTAL REGULATION OF CHILDREN'S
RESIDENTIAL FACILITIES

provider shall report the disaster/emergency to the parent or guardian and the placing agency as soon as possible of the conditions at the facility and report the disaster/emergency to the lead regulatory authority as soon as possible, but no later than 72 hours after the incident occurs.

~~D~~G. Floor plans showing primary and secondary means of egress shall be posted on each floor in locations where they can easily be seen by staff and residents.

~~E~~H. The procedures and responsibilities reflected in the emergency procedures shall be communicated to all residents within seven days following admission or a substantive change in the procedures.

~~F. The telephone numbers of the authorities to be called in case of an emergency shall be prominently posted on or next to each telephone.~~

~~G~~I. At least one evacuation drill (the simulation of the facility's emergency procedures) shall be conducted each month in each building occupied by residents.

~~H~~J. Evacuation drills shall include, at a minimum:

1. Sounding of emergency alarms;
2. Practice in evacuating buildings;
3. Practice in alerting emergency authorities; ~~and~~
4. Simulated use of emergency equipment; and
5. Practice in securing resident emergency information.

STANDARDS FOR INTERDEPARTMENTAL REGULATION OF CHILDREN'S
RESIDENTIAL FACILITIES

~~IK.~~ During any three consecutive calendar months, at least one evacuation drill shall be conducted during each shift.

~~J.~~ The facility shall assign at least one staff member responsibility for conducting and documenting evacuation drills.

~~KL.~~ A record shall be maintained for each evacuation drill and shall include the following:

1. Buildings in which the drill was conducted;
2. The date and time of drill;
3. The amount of time to evacuate the buildings;
4. Specific problems encountered;
5. Staff tasks completed including:
 - a. Head count, and
 - b. Practice in notifying emergency authorities;
6. A summary; and
7. The name of the staff members responsible for conducting and documenting the drill and preparing the record.

~~LM.~~ The record for each evacuation drill shall be retained for three years after the drill.

STANDARDS FOR INTERDEPARTMENTAL REGULATION OF CHILDREN'S
RESIDENTIAL FACILITIES

~~MN.~~ The facility shall assign one staff member ~~responsibility for the evacuation drill program at the facility~~ who shall : ensure that all requirements regarding the emergency preparedness and response plan and the evacuation drill program are met.

- ~~1. Ensure that evacuation drills are conducted at the times and intervals required by these interdepartmental standards and the facility's emergency procedures;~~
- ~~2. Review evacuation drill reports to identify problems in conducting the drills and in implementing the requirements of the emergency procedures;~~
- ~~3. Consult with the local emergency authorities, as needed, and plan, implement and document training or other actions taken to remedy any problems found in implementing the emergency procedures; and~~
- ~~4. Consult and cooperate with local emergency authorities to plan and implement an educational program for facility staff and residents on topics in safety.~~

~~22 VAC 42-11-980. Notifications.~~

~~In the event of a disaster, fire, emergency or any other condition at the facility that may jeopardize the health, safety or well-being of the children, the facility shall:~~

- ~~1. Take appropriate action to protect the health, safety and well-being of the children;~~
 - ~~2. Take appropriate actions to remedy the conditions as soon as possible, including reporting to and cooperating with local health, fire, police or other appropriate officials;~~
- ~~and~~

STANDARDS FOR INTERDEPARTMENTAL REGULATION OF CHILDREN'S
RESIDENTIAL FACILITIES

~~3. Notify the regulatory authorities as soon as possible of the conditions at the facility
and the status of the residents.~~

~~22 VAC 42-11-990. Written fire plan.~~

~~A. The facility shall develop a written plan to be implemented in case of a fire.~~

~~B. Procedures and responsibilities reflected in the written fire plan shall be
communicated to all residents within seven days following admission or a substantive
change in the plan.~~

~~C. The telephone number of the fire department to be called in case of fire shall be
prominently posted on or next to each telephone.~~

~~22 VAC 42-11-1000. Staff training.~~

~~A. Each staff member shall be trained in fire procedures in accordance with the Virginia
Statewide Fire Prevention Code (13 VAC 5-51-10 et. seq.).~~

~~B. Each new staff member shall be trained in emergency and evacuation procedures
and their implementation prior to working alone while supervising one or more children
and within seven days of employment.~~

FORMS

Initial Application for a Virginia State License/Certificate to Operate a Residential Facility
for Children, 032-05-5535 (effective ~~7/1/00~~ revised 05/2006).

STATE BOARDS OF EDUCATION; JUVENILE JUSTICE;
MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE
ABUSE SERVICES; AND SOCIAL SERVICES

Page 69 of 69

STANDARDS FOR INTERDEPARTMENTAL REGULATION OF CHILDREN'S
RESIDENTIAL FACILITIES

I certify that this regulation is full, true and correctly dated.

Wallace G. Harris, Chairman
Coordinating Committee